

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Robert G. Taub, Acting Chairman;
Nanci E. Langley, Vice Chairman;
Mark Acton; and
Tony Hammond

Competitive Product Prices
Global Plus 3 Contracts
Negotiated Service Agreements

Docket No. MC2016-152

Competitive Product Prices
Global Plus 3 Contracts (MC2016-152)
Negotiated Service Agreement

Docket No. CP2016-196

ORDER ADDING GLOBAL PLUS 3 TO THE COMPETITIVE PRODUCT LIST
AND APPROVAL OF DESIGNATION AS BASELINE AGREEMENT

(Issued June 21, 2016)

I. INTRODUCTION

The Postal Service seeks to add a new product identified as Global Plus 3 to the competitive product list.¹ For the reasons discussed below, the Commission approves the Request.

¹ Request of the United States Postal Service to Add Global Plus 3 to the Competitive Product List and Notice of Filing a Global Plus 3 Contract Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal, June 10, 2016 (Request).

II. BACKGROUND

On June 10, 2016, in accordance with 39 U.S.C. § 3642 and 39 C.F.R. § 3020.30 *et seq.*, the Postal Service filed the Request, supporting documents, and the negotiated service agreement (Agreement) it seeks to have designated as the baseline agreement for the Global Plus 3 product. In the Request, the Postal Service asserts that Global Plus 3 is a competitive product that establishes rates not of general applicability within the meaning of 39 U.S.C. § 3632(b)(3). See Request at 6; see *also* Request, Attachments 1, 2. Among the supporting documents, the Postal Service included a statement supporting the Request; a copy of the Governors' Decision authorizing the product; proposed revisions to the Mail Classification Schedule (MCS) to accommodate the proposed new product, a copy of the Agreement; a certification of compliance with 39 U.S.C. § 3633(a); and financial workpapers. In addition, the Postal Service submitted an application for non-public treatment of materials requesting that unredacted portions of the Governors' Decision and the Agreement, customer-identifying information, and related financial information, remain under seal. *Id.* Attachment 6.

Global Plus Contracts provide prices for "some combination of International Priority Airmail service (IPA), International Surface Air Lift service (ISAL), Priority Mail Express International service (PMEI), Priority Mail International service (PMI), and Commercial ePacket service (CeP) when the contractholder acts as a 'Mailer,' and additional prices for PMEI service and PMI service when the contractholder acts as a 'Reseller.'" Request at 4-5. However, the Postal Service states that the Global Plus 3 product is distinct from Global Plus 1C and Global Plus 2C products because Global Plus 3 allows the contract partner to act as reseller for PMEI and PMI at discounted prices. *Id.* at 5-6; see *also id.* Attachment 3 at 5-6.

In its Request, the Postal Service states that the Agreement fits within the revised MCS language for Global Plus Contracts. Request at 4. The Postal Service

requests that the Agreement be added to the MCS as the baseline reference agreement for the Global Plus 3 product.

The Agreement is the successor to a Global Plus 1C agreement scheduled to expire on June 30, 2016.² The Agreement is intended to take effect July 1, 2016. Request at 5. According to the Agreement's terms, it is set to expire June 30, 2017. See *id.* Attachment 4 at 7.

On June 13, 2016, the Commission provided public notice of the Postal Service's filing; established the instant docket for consideration of the filing's consistency with applicable statutory policies and Commission regulations; appointed a Public Representative; and provided an opportunity to comment.³

III. COMMENTS

The Public Representative filed comments on June 17, 2016.⁴ No other interested person filed comments. The Public Representative concludes that Global Plus 3 satisfies the criteria of section 3642(b), concerning the classification of new competitive products. PR Comments at 2. She notes that the Postal Service makes "reasonable arguments" that the Global Plus 3 product is "neither market dominant nor covered within the postal monopoly." *Id.* Additionally, she states that "treatment of the instant contract as the baseline agreement is appropriate." *Id.*

The Public Representative states that the Postal Service's financial workpapers indicate that the negotiated prices in the Agreement should generate sufficient revenue to cover its costs. *Id.* at 3. Additionally, based on her review of the Statement of Supporting Justification, the Agreement, the proposed revised MCS language, and the

² *Id.* at 5. See Docket No. CP2015-68, Order No. 3291, Order Approving Modification One to Global Plus 1C Negotiated Service Agreement, May 12, 2016, at 1.

³ Notice Initiating Docket(s) for Recent Postal Service Negotiated Service Agreement Filings, June 13, 2016.

⁴ Public Representative Comments on Request of the Postal Service to Add Global Plus 3 to the Competitive Products List, June 17, 2016 (PR Comments).

supporting financial workpapers, she concludes that Global Plus 3 complies with the requirements outlined in section 3633(a). *Id.* at 2.

IV. COMMISSION ANALYSIS

The Commission has reviewed the Request, the Agreement, the financial analyses filed under seal, and the Public Representative's comments.

Product list requirements. The Commission's statutory responsibilities when evaluating the Request include assigning Global Plus 3 product to either the market dominant or competitive product list. See 39 U.S.C. § 3642(b)(1); 39 C.F.R. § 3020.34. Before adding a product to the competitive product list, the Commission must determine that the Postal Service does not exercise sufficient market power that it can effectively set the price of the product substantially above costs, raise prices significantly, decrease quality, or decrease output, without the risk of losing a significant level of business to other firms offering similar products. See 39 U.S.C. § 3642(b)(1). In addition, the Commission must consider the availability and nature of private sector enterprises engaged in delivering the product, the views of those who use the product, and the likely impact on small business concerns. See 39 U.S.C. § 3642(b)(3); 39 C.F.R. §§ 3020.32(f), (g), and (h).

The Postal Service asserts that it provides postal services of the kind provided under the Agreement in a highly competitive market, that other shippers who provide similar services constrain its bargaining position, and that it can therefore neither raise prices nor offer prices substantially above costs, nor decrease service, quality, or output without risking the loss of business to competitors. Request, Attachment 1 at 2-3. The Postal Service states that competitive mail services are widely available from private firms, that the contract partner's execution of the Agreement indicates the customer finds this product preferable to similar products of the Postal Service's competitors, and that the Postal Service is unaware of any small business concerns that could offer comparable services to the contract partner, and that the addition of the Global Plus 3

product to the competitive products list will have little, if any, effect on small business concerns. *Id.* at 4-5.

The Commission finds that the Postal Service does not exercise sufficient market power that it can effectively set the price of the proposed product substantially above costs, raise prices significantly, decrease quality, or decrease output, without the risk of losing a significant level of business to other firms offering similar products. The availability of other private sector providers supports this conclusion. The contract partner and the Public Representative support the addition of the Global Plus 3 product to the competitive product list. Further, there is no evidence of an adverse impact on small businesses. For these reasons, having considered the relevant statutory and regulatory requirements, the comments filed, and the Postal Service's supporting justification, the Commission finds that Global Plus 3 product is appropriately classified as competitive and is added to the competitive product list.

Product list. The Commission added Global Plus, Global Plus 1A, Global Plus 1B, and Global Plus 1C products to the competitive product list by operation of Order Nos. 85, 504, 622, and 1151 respectively.⁵ Additionally, the Commission included Global Plus 2, Global Plus 2A, Global Plus 2B, and Global Plus 2C products to the competitive product list by operation of Order Nos. 112, 505, 623, and 1135 respectively.⁶ The Postal Service states the proposed classification change adding Global Plus 3 to the MCS is consistent with the requirements of 39 U.S.C. § 3642 and proposes conforming revisions to MCS section 2510.6, which covers Global Plus Contracts. Request at 7-8; see Attachment 3.

Cost considerations. Because the Commission finds Global Plus 3 to be a competitive product, the Postal Service must also show that the Agreement covers its attributable costs, does not cause market dominant products to subsidize competitive products as a whole, and contributes to the Postal Service's institutional costs. 39 U.S.C. § 3633(a); 39 C.F.R. §§ 3015.5, 3015.7. As long as the revenue generated by the Agreement exceeds its attributable costs, the Agreement is unlikely to reduce the contribution of competitive products as a whole or to adversely affect the ability of competitive products as a whole to contribute an appropriate share of institutional costs.

⁵ Request at 2. See, *respectively*, Docket Nos. CP2008-8, CP2008-9, CP2008-10, Order Concerning Global Plus Negotiated Service Agreements, June 27, 2008 (Order No. 85); Docket Nos. MC2010-26, CP2010-67, CP2010-68, Order Approving Functionally Equivalent Global Plus 1A Contracts Negotiated Service Agreement, July 30, 2010 (Order No. 504); Docket Nos. MC2011-7, CP2011-39, CP2011-40, Order Adding Global Plus 1B to the Competitive Product List and Approving Functionally Equivalent Global Plus 1B Contracts, December 23, 2010 (Order No. 622); Docket Nos. MC2012-6, CP2012-12, CP2012-13, Order Adding Global Plus 1C to the Competitive Product List and Approving Related Global Plus 1C Agreements, January 19, 2012 (Order No. 1151).

⁶ Request at 2-3. See, *respectively*, Docket Nos. MC2008-7, CP2008-16, CP2008-17, Order Concerning Global Plus 2 Negotiated Service Agreements, October 3, 2008 (Order No. 112); Docket Nos. MC2010-27, CP2010-69, CP2010-70, Order Approving Functionally Equivalent Global Plus 2A Contracts Negotiated Service Agreements, July 30, 2010 (Order No. 505); Docket No. MC2011-8, CP2011-41, CP2011-42, Order Adding Global Plus 2B to the Competitive Product List and Approving Functionally Equivalent Global Plus 2B Contracts, December 23, 2010 (Order No. 623); Docket Nos. MC2012-5, CP2012-10, CP2012-11, Order Adding Global Plus 2C to the Competitive Product List and Approving Functionally Equivalent Global Plus 2C Agreements, January 13, 2012 (Order No. 1135).

In other words, if the Agreement covers its attributable costs, it is likely to comply with 39 U.S.C. § 3633(a).

The Request includes a certified statement that the Agreement complies with the requirements of 39 U.S.C. § 3633(a). Request, Attachment 5. In addition, the Postal Service filed supporting revenue and cost data showing that the Agreement is expected to cover its costs. Based on a review of the record, the Commission finds that the rates during the Agreement should cover the Agreement's attributable costs. 39 U.S.C. § 3633(a)(2). For this reason, it finds that the Agreement should not result in competitive products as a whole being subsidized by market dominant products, in accordance with 39 U.S.C. § 3633(a)(1). Similarly, it finds the Agreement is unlikely to prevent competitive products as a whole from contributing an appropriate share of institutional costs, consistent with 39 U.S.C. § 3633(a)(3). See *also* 39 C.F.R. § 3015.7(c).

The Commission will review the Agreement's cost coverage and the contribution of competitive products as a whole to the Postal Service's institutional costs in the Commission's Annual Compliance Determination to ensure that they continue to comply with 39 U.S.C. § 3633(a).

In conclusion, a preliminary review of the Agreement indicates it is consistent with section 3633(a).

Baseline agreement. The Commission designates the Agreement as the baseline agreement for the Global Plus 3 product. Following current practice, in any future request to add a negotiated service agreement to the Global Plus 3 product, the Postal Service shall identify all significant differences between the new negotiated service agreement and the baseline agreement. Significant differences include terms and conditions that impose new obligations or new requirements on any party to the negotiated service agreement. The docket referenced in the caption of the request should be Docket No. MC2016-152. In conformity with current practice, a redacted copy of Governors' Decision No. 11-6 should be included with the request.

Other considerations. The Agreement is intended to take effect July 1, 2016. Request at 5. According to the Agreement's terms, it is set to expire on June 30, 2017. See *id.* Attachment 4 at 7. The Postal Service shall promptly notify the Commission should there be a change in the effective date of the Agreement. If the Agreement is terminated prior to the scheduled expiration date, the Postal Service shall promptly file notice of such termination with the Commission in this docket.

Follow-up submissions. Within 30 days after the instant contract terminates, the Postal Service shall file costs, volumes, and revenues disaggregated by weight and country group associated with the Agreement, including any penalties paid.

In conclusion, the Commission approves Global Plus 3 as a new product and designates the Agreement as the baseline agreement for the Global Plus 3 product. Revisions to the competitive product list appear below the signature of this Order and are effective immediately.

V. ORDERING PARAGRAPHS

It is ordered:

1. Global Plus 3 is added to the competitive product list as a new product under Negotiated Service Agreements, Outbound International. Revisions to the competitive product list and the Mail Classification Schedule appear below the signature of this Order and are effective immediately.
2. The Postal Service shall notify the Commission should there be a change in the effective date of the Agreement.
3. The Postal Service shall promptly file notice of the Agreement's termination with the Commission in this docket if the Agreement is terminated prior to the scheduled expiration date.

4. Within 30 days of the expiration of the Agreement in Docket No. CP2016-196, the Postal Service shall file costs, volumes, and revenues disaggregated by weight and country group associated with the Agreement, including any penalties paid.
5. The Secretary shall arrange for publication in the *Federal Register* of an updated product list reflecting the change made in this Order.

By the Commission.

Stacy L. Ruble
Secretary

CHANGE IN PRODUCT LIST

The following material represents changes to the product list codified at 39 CFR Appendix A to Subpart A of Part 3020—Mail Classification Schedule. These changes reflect the Commission’s order in Docket Nos. MC2016-152 and CP2016-196. The Commission uses two main conventions when making changes to the product list. New text is underlined. Deleted text is struck through.

Part B—Competitive Products **2000 Competitive Product List**

Negotiated Service Agreements*

Outbound International*

Global Plus Contracts

Global Plus 3

CHANGES TO THE MAIL CLASSIFICATION SCHEDULE

The following material represents a change to the Classification Schedule. The Commission uses two main conventions when making changes to the product list. New text is underlined. Deleted text is struck through.

Part B—Competitive Products **2000 Competitive Product List**

Negotiated Service Agreements*

Outbound International*

Global Plus Contracts

Global Plus 3

2500 Negotiated Service Agreements

2510 Outbound International

2510.6 Global Plus Contracts

2510.6.1 Description

- a. Global Plus Contracts provide prices for any combination of the following: International Priority Airmail (IPA), International Surface Air Lift (ISAL), Global Bulk Economy (GBE), ~~Global Direct (GD)~~, Global Express Guaranteed (GXG), Priority Mail Express International (PMEI), Priority Mail International (PMI), Commercial ePacket (CeP), and International Business Reply Service (IBRS). These contracts are for high-volume mailers or Postal Qualified Wholesalers and are the only contract vehicles for IPA, ISAL, GBE, and CeP mailings.
- b. The contracts include all destinations served by IPA, and/or ISAL, and/or GBE, ~~and/or GD~~, and/or GXG, and/or PMEI, and/or PMI, and/or CeP, and/or IBRS, as specified by the Postal Service. The preparation requirements are the same as similar to the preparation requirements for all IPA shipments, and/or ISAL shipments, and/or GBE shipments, and/or GXG shipments, and/or PMEI shipments, and/or PMI shipments, and/or CeP shipments, and/or IBRS shipments but may vary for certain PMEI shipments, and/or PMEI shipments. ~~For GD shipments, the preparation requirements are the~~

~~preparation requirements for the given product set by the receiving country.~~
The mailer may use Postal Service-supplied labeling software, or a non-Postal Service supplied labeling software that has the same functionality as the Postal Service-supplied labeling software for PMEI and PMI shipments. The software allows for preparation of address labels and customs declarations and submission of electronic shipment information to the Postal Service, as well as prepayment of customs duties and taxes and pre-advice for foreign customs authorities by the Postal Service. The mailer may be required to prepare specific shipments according to country specific requirements.

c. Certain Global Plus Contracts may also allow for the contract holder to act as a Reseller and provide discounted prices to a reseller for PMEI and PMI for destinations serviced by PMEI and PMI. The contract holder as reseller offers prices based on its contract to its customers (reseller's customers). Preparation requirements are the same as for all PMEI and PMI shipments with the following exceptions:

- The reseller's customer is required to use PC Postage from an authorized PC Postage vendor, or any other postage payment method authorized by the Postal Service under the contract holder's Global Plus contract.
- The reseller's customer may be required to prepare certain shipments according to country specific requirements.
- The reseller's customer may be required to tender shipments through limited acceptance channels.

ed. To qualify for a Global Plus contract, a mailer must be capable, on an annualized basis, of either tendering at least 5,000 pieces of international mail to the Postal Service or paying at least \$100,000.00 in international postage to the Postal Service.

de. Individual negotiated agreements must comply with the requirements specified in 39 U.S.C. § 3633.

ef. Individual negotiated agreements must be on file with the Commission no less than 15 days prior to their effective date.

2510.6.2 Size and Weight Limitations

Large Envelopes (Flats)

	Length	Height	Thickness	Weight
Minimum	5 inches	3.5 inches	0.007 inch	none

and at least one dimension exceeds	11.5 inches	6.125 inches	0.25 inch	
Maximum	15 inches	12 inches	0.75 inches	4 pounds <u>17.6 ounces</u>

Priority Mail International¹

	Length	Height	Thickness	Weight
Minimum	3.5 inch 3.5 inch none <u>For customer-provided packaging, large enough to accommodate postage, address, custom labels, and any other required elements on the address side</u>			none
Maximum	79 inches			70 pounds
	108 inches in combined length and girth			

Notes

1. Weight and other exceptional size limits based on shape and destination country restrictions may apply as specified in the International Mail Manual.

2510.6.3 Minimum Volume or Revenue Requirements

Mailers must commit to tender varying minimum volumes or postage on an annualized basis. The minimum volume requirement for GBE is 100 pounds per mailing. ~~The mailer may be required to meet a volume minimum or weight requirement to use Global Direct service.~~ If paying through permit imprint, the mailer is required to meet the minimum volume or weight requirements in effect for manifest mailings. For PMEI paid through an USPS Corporate Account (USPSCA), there is no minimum volume requirement per mailing.

2510.6.4 Price Categories

The discount percentage or price, as applicable to the service, is dependent upon volume or postage commitment on the part of the customer. Additional tiered discounts are available if the mailer exceeds the minimum volume or

postage commitment. Also, separate charges apply if the customer uses labeling, harmonization, or return services.

The following price categories are available for the product specified in this section:

- Global Plus – IPA
- Global Plus – ISAL
- Global Plus – GBE
- Global Plus – GXG
- Global Plus – PMEI
- ~~Global Plus – GD~~
- Global Plus – PMI
- Global Plus – CeP
- Global Plus – IBRS

2510.6.5 Optional Features

The following additional postal services may be available in conjunction with the product specified in this section:

- Pickup On Demand Service: PMEI and PMI only
- International Ancillary Services (2615)
 - International Certificate of Mailing: IPA, ~~PMI Flat Rate Envelope~~ only (2615.1)
 - International Insurance: PMEI, PMI ~~parcels~~ only (2615.5)
 - ~~Outbound Competitive International Registered Mail: PMI Flat Rate Envelope only (2615.2)~~
 - International Return Receipt: PMEI, PMI only (2615.3)
- ~~For GD, all optional features applicable to the product as set by the receiving country.~~

- For IPA, optional features may include Commercial ePacket service, which is a delivery confirmation with scanning service available for IPA items to certain destinations.
- Software-Related Services: PMEI and PMI only
 - Labeling
At the mailer's request, the Postal Service will arrange for labels and customs declarations to be applied.
 - Harmonization
At the mailer's request, the Postal Service will arrange for classification of merchandise according to country specified customs regulations to determine applicable duties and taxes.
 - Returns
At the mailer's request, the Postal Service will contract with a returns center appropriate for the particular country. The returns center inspects the goods it receives from the mailer's customers and returns the goods in bulk to the mailer in the United States. The Postal Service invoices the mailer for appropriate charges. The Postal Service may also charge for certain Priority Mail Express International and Priority Mail International undeliverable-as-addressed returns when Customs duties have been prepaid.

2510.6.6 Products Included in Group (Agreements)

Each product is followed by a list of agreements included within that product.

- Global Plus 3
Baseline Reference
Docket Nos. MC2016-152 and CP2016-196
PRC Order No. 3378, June 21, 2016
Included Agreements
CP2016-196, expires June 30, 2017